

## Message Text

UNCLASSIFIED

PAGE 01 LONDON 19731 022046Z

ACTION EB-08

INFO OCT-01 AF-10 EUR-12 EA-12 ISO-00 COME-00 L-03

JUSE-00 OES-07 INT-05 FEA-01 ERDA-07 FTC-01

CIAE-00 INR-07 NSAE-00 PRS-01 /075 W

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TO SECSTATE WASHDC PRIORITY 0925

INFO AMEMBASSY PRETORIA

AMEMBASSY CANBERRA

AMEMBASSY BONN

AMEMBASSY OTTAWA

AMEMBASSY PARIS

USMISSION BERLIN

AMEMBASSY BRUSSELS

UNCLAS LONDON 19731

USOECN ALSO FOR EMBASSY

USEEC

DEPARTMENT ALSO PASS ANTITRUST DIVISION OF DOJ

E.O.11652: N/A

TAGS: ETRD, UK

SUBJECT: ANTITRUST: WESTINGHOUSE LOSES FINAL UK APPEAL  
IN URANIUM CARTEL CASE

REF: (A) LONDON 19609; (B) LONDON 17788; (C) LONDON 17778

1. ACTING ON THE FINAL APPEAL AVAILABLE TO WESTINGHOUSE  
IN THE UK COURTS, THE HOUSE OF LORDS RULED ON DECEMBER 1  
NOT TO GIVE EFFECT TO THE LETTERS ROGATORY ISSUED BY THE  
U.S. DISTRICT COURT IN RICHMOND, VIRGINIA IN THE RTZ  
CASE. THIS MEANS THAT RIO TINTO ZINC CORPORATION LTD.,  
RTZ SERVICES LTD. AND THEIR DIRECTORS AND EXECUTIVES ARE  
UNCLASSIFIED

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PAGE 02 LONDON 19731 022046Z

NOT REQUIRED TO APPEAR BEFORE U.S. OFFICIALS TO TESTIFY  
ON MATTERS RELATING TO THE WESTINGHOUSE PROCEEDINGS IN  
VIRGINIA. IN ADDITION, THE LORDS HELD THAT RTZ IS NOT  
REQUIRED TO PROVIDE ANY OF THE DOCUMENTS LISTED IN THE  
LETTERS ROGATORY. THE LORDS ALSO UPHELD THE RTZ CLAIM  
TO PRIVILEGE AGAINST SELF-INCRIMINATION ON THE GROUNDS  
THAT PRODUCTION OF CERTAIN REQUESTED DOCUMENTS RELATING

TO PROCEEDINGS TO WHICH RTZ WAS NOT A PARTY MIGHT OPEN THE COMPANY TO PENAL CHARGES UNDER THE EUROPEAN COMMUNITY TREATY OF ROME. COSTS, ESTIMATED TO BE 250,000 POUNDS (\$455,000), ARE TO BE PAID BY WESTINGHOUSE.

2. WHILE LEAVING THE LEGAL ASSESSMENT OF THESE DECISIONS TO WASHINGTON, IT DOES APPEAR TO THE EMBASSY FROM A FIRST READING OF THE LAW LORDS' WRITTEN OPINIONS THAT THE CASE TURNED SUBSTANTIALLY ON (A) THE ACTION OF THE DEPARTMENT OF JUSTICE IN SEEKING EVIDENCE FOR DISTRICT OF COLUMBIA CRIMINAL GRAND JURY PROCEEDINGS THROUGH THE GRANTING OF IMMUNITY IN THE RICHMOND PROCEEDINGS, AND (B) THE STRONG POSITION TAKEN BY THE UK ATTORNEY GENERAL BEFORE THE COURT THAT U.S. ANTITRUST INVESTIGATORY PROCEEDINGS AGAINST NON-U.S. CITIZENS OUTSIDE THE U.S. CONSTITUTES AN INFRINGEMENT OF THE JURISDICTION AND SOVEREIGNTY OF THE UK. IN HIS WRITTEN OPINION ON THE UK GOVERNMENT'S POLICY AGAINST RECOGNIZING U.S. EXTRA-TERRITORIAL ANTITRUST JURISDICTION OVER UK FIRMS, LORD WILBERFORCE HELD "THE COURT SHOULD, IN SUCH MATTERS, SPEAK WITH THE SAME VOICE AS THE EXECUTIVE: THEY HAVE NO DIFFICULTY IN DOING SO."

3. THE PRESS CARRIED SUBSTANTIAL REPORTING ON THE DECISION, INCLUDING FRONT-PAGE HEADLINES IN THE "FINANCIAL TIMES." PREDICTABLY, THE FACTS OF THE CASE WERE FRE-UNCLASSIFIED

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PAGE 03 LONDON 19731 022046Z

QUENTLY COUCHED IN TERMS OF A "CHECKING" OF THE U.S. INVASION OF BRITISH SOVEREIGNTY. CALLING THE DECISION AN "IMPORTANT NEW EPISODE IN THE CONTINUING STRUGGLE ... TO RESIST U.S. ATTEMPTS ... TO ENFORCE ITS AUTHORITY ON FOREIGN NATIONALS ...", THE EDITORIAL IN THE FT JUDGED THAT ON PURELY LEGAL GROUNDS "THE EXPANSIONARY AMBITIONS OF U.S. AGENCIES HAVE BEEN CHECKED." SAYING COMITY BETWEEN GOVERNMENTS HAS BEEN ENDANGERED BY THE U.S. APPROACH, THE EDITORIAL CONCLUDED THAT "THE FINDINGS OF THE HOUSE OF LORDS MAY HAVE A MORE DIRECT AND GENERAL EFFECT ON THE ATTITUDE OF THE U.S. COURTS TO MATTERS OF SOVEREIGNTY: THOSE WHO WORK IN A TRADITION OF COMMON LAW TEND TO RESPECT ONE ANOTHER'S DECISIONS."

4. COPIES OF HOUSE OF LORDS' DECISIONS ARE BEING POUCH-ED TO THE DEPARTMENT (EB/WINTER) FOR DISTRIBUTION TO WASHINGTON AGENCIES.

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## Message Attributes

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